

# ATTACHMENT A

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## 64 Procedures for Examination

The initial competency examination of defendants free on bail should normally be made locally by private psychiatrists or on an outpatient basis at a hospital or clinic. The use of local examiners whenever possible is important to obviate extensive travel by Bureau of Prison psychiatrists and to avoid due process issues arising from unnecessary infringements of a defendant's liberty interests. See *Marcey v. Harris*, 400 F.2d 772 (D.C. Cir. 1972). Compare *In re Newchurch*, 807 F.2d 404 (5th Cir. 1986). It is the responsibility of the United States Attorney to determine the availability of board-certified psychiatrists and licensed clinical psychologists, and to maintain a panel from which selections may be made.

The court also has discretion to order the accused committed to the custody of the Attorney General for purposes of an examination under Section 4241. See 18 U.S.C. § 4247(b); *United States v. Weissberger*, 951 F.2d 392, 399 (D.C. Cir. 1991); *Featherston v. Mitchell*, 418 F.2d 582, 585 (5th Cir. 1969), *cert. denied*, 397 U.S. 937 (1970); *United States v. Hartz*, 852 F. Supp. 511, 514 (S.D. W.Va.), *aff'd*, 27 F.3d 564 (4th Cir. 1994). Such a commitment may be for a reasonable period, not to exceed thirty days, subject to extension for an additional fifteen days on application of the director of the facility making the examination. See 18 U.S.C. § 4247(b). After the court makes a determination that commitment for examination is necessary, it is the responsibility of the Attorney General, through the Bureau of Prisons, to select the specific facility at which the examination will be conducted. See 18 U.S.C. § 4247(b).

Whenever the accused is referred for examination, the Assistant United States Attorney should forward to the examining doctor a letter setting forth a full exposition concerning the alleged crime together with all background information on the accused, including any history of criminal convictions and any prior history of mental illness.